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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,737	02/05/2002	Wayne B. Sargent	31183.6	8665
27683	7590	01/07/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			JOHNSON, STEPHEN	
		ART. UNIT	PAPER NUMBER	
		3641		

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/068,737	SARGENT, WAYNE B.
Examiner	Art Unit	
Stephen M. Johnson	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 30 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1,6,8-13,15-28,31,33,35 and 37-48 is/are pending in the application.
  - 4a) Of the above claim(s) 17-26 and 38-48 is/are withdrawn from consideration.
- 5) Claim(s) 15,16 and 37 is/are allowed.
- 6) Claim(s) 1,6,8-13,27,28,31,33 and 35 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1,6,8-13,15-28,31,33,35 and 37-48 are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>10</u> .	6) <input type="checkbox"/> Other: _____

1. Claims 6, 28, and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 28, how are the phrases "five layers"; "a seventh layer"; and "a thirteenth layer" intended to relate to the previously claimed "at least one first layer" and "at least one second layer"? In claim 6, how are the phrases "a seventh layer"; "an additional five layers"; and "a thirteenth layer" intended to relate to the previously claimed "at least one second layer"? How can applicant claim "a seventh layer" and "a thirteenth layer" when a third layer; a fourth layer; etc. have not been previously claimed? Claim 33 depends from a cancelled claim.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 8-9, 11-13, 27, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. (811) in view of Armellino Jr. et al..

Price et al. (811) disclose a ballistic resistant panel comprising:

a) at least one first layer of a woven ballistic material;	44, 48
b) at least one second layer of a non-woven ballistic material;	46, 46a, 46b
c) a first series of connectors;	72 or 74
d) a second series of connectors;	72 or 74
e) quilting of Spectra material; and	col. 5, lines

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f) a cover.

see figs. 3A,

3B

Price et al. (811) apply as cited above. However, undisclosed is a first and second series of connectors that form a quilting pattern. Armellino Jr. et al. teach a first and second series of connectors that form a quilting pattern 11, 12. Applicant is substituting one pattern of connectors in an analogous art setting as explicitly encouraged by the primary reference (see Price et al. (811); col. 5, lines 31-35). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Armellino Jr. et al. to the Price et al. (811) armor and have an armor with a different stitching configuration for connecting the first and second layers.

4. Claims 10 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. (811) in view of Armellino Jr. et al. as applied to claims 1, 8-9, 11-13, 27, and 35, above, and further in view of Miller.

Price et al. (811) and Armellino Jr. et al. apply as previously recited. However, undisclosed is quilting or stitching of cotton. Miller teaches a quilting or stitching of cotton (see col. 3, lines 58-61). Applicant is substituting one stitching material for another as explicitly encouraged by the secondary reference (see Miller, col. 3, lines 60-61). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Miller to the Price et al. in view of Armellino Jr. et al. ballistic panel and have a ballistic panel with a different material stitching.

5. Claims 1, 9, 11-13, and 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. in view of Armellino Jr. et al..

Li et al. disclose a ballistic resistant panel comprising:

- a) at least one first layer of a woven ballistic material; 12a-12j; col. 9, lines 1-2
- b) at least one second layer of a non-woven ballistic material; 12a-12j; col. 9, lines 3-4, 10-14
- c) a first series of connectors; 14
- d) a second series of connectors; 16
- e) quilting of Spectra material; and col. 13, line 1
- f) layered formations of 90x90 and 45x45. col. 10, line 42

Li et al. apply as cited above. However, undisclosed is a first and second series of connectors that form a quilting pattern. Armellino Jr. et al. teach a first and second series of connectors that form a quilting pattern 11, 12. Applicant is substituting one pattern of connectors in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Armellino Jr. et al. to the Li et al. armor and have an armor with a different stitching configuration for connecting the first and second layers.

6. Claims 10 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. in view of Armellino Jr. et al. as applied to claims 1, 9, 11-13, and 27, above, and further in view of Miller.

Li et al. and Armellino Jr. et al. apply as previously recited. However, undisclosed is quilting or stitching of cotton. Miller teaches a quilting or stitching of cotton (see col. 3, lines 58-61). Applicant is substituting one stitching material for another as explicitly encouraged by the secondary reference (see Miller, col. 3, lines 60-61). It would have been obvious to a person

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of ordinary skill in this art at the time of the invention to apply the teachings of Miller to the Li et al. in view of Armellino Jr. et al. ballistic panel and have a ballistic panel with a different material stitching.

7. Claims 6 and 28 are too indefinite in their current form to make a determination regarding patentability.

8. Claims 15-16 and 37 are allowed.

9. This application contains claims 17-26 and 38-48 drawn to an invention nonelected without traverse in Paper No. 8. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

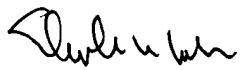
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158.

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The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ

January 6, 2004